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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,250	01/23/2002	Jonathan Michael Peterson	16126908	7792

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EXAMINER

BATSON, VICTOR D

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 03/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/056,250

Applicant(s)

PETERSON, JONATHAN  
MICHAEL

Examiner

Victor Batson

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11, 16, 17, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 9, 10, 12-15 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other:  |

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 19 & 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 19 line 2, "the medial frame" lacks proper antecedent basis.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Brouwer et al. (4,890,801).

Brouwer et al. discloses a self-propelled sod laying machine having all of applicant's claimed structure including a frame, a plurality of wheels, a pair of generally parallel, laterally displaceable elongated arms (considered the combination of members 96 & 108), being pivotally attached to the frame (at 98),

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with a sod roll supporting shaft 136 attachable to the roll ends of the arms as shown in figure 8. Brouwer et al. also discloses a drive system including engine 70 and hydraulic pumps 72 & 66.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Zamboni (4,084,763).

Zamboni discloses a self-propelled sod laying machine having all of applicant's claimed structure including a frame, a plurality of wheels, a pair of generally parallel, laterally displaceable elongated arms (38 & 40), being pivotally attached to the frame, with a sod roll supporting shaft 43 attachable to the roll ends of the arms as shown in figure 1. Brouwer et al. also discloses a drive system including engine 22 and the machine's hydraulic system.

Claims 1-8,11,16,17 are rejected under 35 U.S.C. 102(e) as being anticipated by Miller (6,213,218).

Miller discloses a self-propelled sod laying machine having all of applicant's claimed structure including a frame, a plurality of wheels, a pair of generally parallel, laterally displaceable elongated arms being pivotally attached to the frame, with a sod roll supporting shaft 104 attachable to the roll ends of the arms as shown in figure 1. Miller also discloses a drive system comprising independently controllable hydraulic motors 42. Concerning claims 16 & 17, given the structure of Miller, the claimed method steps would be inherently performed when making the sod laying apparatus of Miller.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6,7,8,11,16,17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brouwer et al. (4,890,801) in view of Zvolanek (5,518,079).

Brouwer et al. discloses a self-propelled sod laying machine as described previously, but lacks the drive means being comprised of independently controllable hydraulic motors rotatably attached to the front wheels.

Zvolanek teaches that it is known in the vehicle art to power drive wheels with. Additionally, Zvolanek teaches that independently controllable hydraulic motors are an equivalent structure known in the art. Therefore, because these two drive means were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the drive means of Zvolanek (comprising independently controllable hydraulic motors rotatably attached to drive wheels) for the drive means of Brouwer et al..

Concerning claims 16,17, the combination renders the claimed method steps obvious since such would be a logical manner of making the combination.

***Allowable Subject Matter***

Claims 19 & 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 9,10,12-15,18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art of record discloses various sod handling devices and machines with hydraulic drive motors.

***Inquiries***

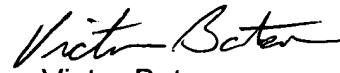
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Batson whose telephone number is (703) 305-6356. The examiner can normally be reached on Monday through Friday (except Wednesday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (703) 308-3870. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-3597 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1115.

March 3, 2003

A handwritten signature in cursive script, appearing to read "Victor Batson".

Victor Batson  
Primary Examiner  
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